

RESOLUTION NO. 2017-03

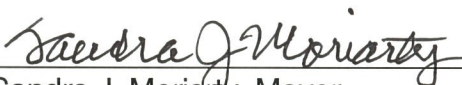
A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF SEDONA, ARIZONA, APPROVING PUBLIC INFRASTRUCTURE COST-SHARING DEVELOPMENT AGREEMENTS BETWEEN THE CITY AND TLAQ PARTNERS, LLC, HORN/SEDONA, LLC, CMR/SEDONA, LLC, AND RAGLAND/SEDONA, LLC (COLLECTIVELY "TLAQUEPAQUE"), AND BETWEEN THE CITY AND SEDONA VACATION CLUB INCORPORATED/THE INN AT LOS ABRIGADOS OWNERS ASSOCIATION ("LOS ABRIGADOS") FOR THE BREWER ROAD/TLAQUEPAQUE DRAINAGE IMPROVEMENTS PROJECT – PHASE 4.

WHEREAS, the City of Sedona ("City") intends to enter into cost-sharing development agreements for the construction of approximately 1,490 linear feet of improved drainage channel within the existing Soldier Wash downstream from Brewer Road, as set forth in the recitals and terms of the agreements with TLAQ Partners, LLC, Horn/Sedona, LLC, CMR/Sedona, LLC and Ragland/Sedona, LLC (collectively "Tlaquepaque"), and Sedona Vacation Club Incorporated/The Inn at Los Abrigados ("Los Abrigados"),


NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE COUNCIL OF THE CITY OF SEDONA, ARIZONA, THAT;

The City of Sedona, through its Mayor and Council, hereby finds that the development agreements comply with A.R.S. § 9-500.05, are consistent with the New Community Plan of November 2013, approves the agreements attached hereto as Exhibits A and B, and authorizes their signature by the Mayor and recording by law.

PASSED AND ADOPTED by the Mayor and Council of the City of Sedona, Arizona this 24th day of January, 2017.


Sandra J. Moriarty, Mayor

ATTEST:


Susan L. Irvine, CMC, City Clerk

APPROVED AS TO FORM:

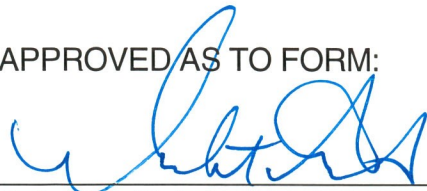

Robert L. Pickels, Jr., City Attorney

EXHIBIT A

Public Infrastructure Cost-Sharing Agreement

This Public Infrastructure Cost-Sharing Agreement ("Agreement") is entered into as of this 24th day of January, 2017, by and between the City of Sedona ("City"), Sedona Vacation Club Incorporated, and the Inn at Los Abridados Owners Association ("Los Abridados"). City and Los Abridados may be referred to individually as "Party" and collectively as the "Parties".

RECITALS

- A. Sedona Vacation Club, Inc. is an Arizona Corporation, and is the owner of real property located within the limits of the City and on the western bank of a natural drainage channel known as "Soldier Wash" commonly known as "Los Abridados Resort & Spa" located at 160 Portal Lane, Sedona, Arizona 86336 (the "Property"). For the purposes of this agreement, Sedona Vacation Club Incorporated and the Inn at Los Abridados Owners Association will be responsible for the financial contributions stated herein.
- B. Upon incorporation in 1988, the City of Sedona acquired the prior rights and obligations to the Soldier Wash drainage channel that had previously been held by Coconino County, Arizona.
- C. The natural drainage channel known as Soldier Wash, which is located on the east side of the Los Abridados property, south of the Portal Lane crossing, and as depicted in the attached Exhibit "A," has in years past been the location of catastrophic flooding. This natural channel has undergone significant man-made modification in years preceding the incorporation of the City in order to accommodate private development. These changes include, but are not limited to, man-made embankments, bridges, and walkways.
- D. Arizona Revised Statutes § 9-500.05 authorizes the City to enter into a development agreement with a land owner or any other person having an interest in real property to facilitate development of the real property by providing for, among other things, the conditions, terms, restrictions, and requirements for public infrastructure and the financing of public infrastructure.
- E. On January 24, 2017 (the "Effective Date"), the City Council adopted Resolution No. 2017-_____, which approved and authorized the execution and delivery of this Agreement.
- F. In 2013, the City paid for an engineering study to propose improvements that could be made to Soldier Wash. This study, conducted by Shephard-Wesnitzer, Inc., identified three successive construction and improvement alternatives that could be built to mitigate future flooding. These three channel improvement alternatives are identified as follows:
 - 1. Alternative 1: Identifying and removing the existing obstructions at the channel banks to increase flow area.
 - 2. Alternative 2: Construction of training walls near the top of banks to increase channel capacity and prevent flooding of the overbanks.

3. Alternative 3: Removal of the existing double box culverts at Portal Lane and the pedestrian walkway between the Los Abrigados and Tlaquepaque properties and replacement with clear span bridge crossings, and removal/replacement of bank stabilization to increase channel flow area.
- G. The Alternatives indicated in Recital F were restructured into the following phases of design and construction:
- Phase 1 – The portion of Alternatives 1 and 2 between Brewer Road and Portal Lane. Construction of this phase was completed in February 2014.
 - Phase 2 – The remainder of Alternatives 1 and 2 downstream of Portal Lane. Construction of this phase was completed in July 2015.
 - Phase 3 – The work described in Alternative 3 (the replacement of the Portal Lane Bridge and the Pedestrian Bridge). Construction of this phase was completed in June 2016.
 - Phase 4 – This phase will be split into two phases, Phase 4A and Phase 4B. The Phase 4A improvements include the channel reach of Soldier Wash between Portal Lane and Oak Creek, and construction is currently scheduled between January 1, 2017 and June 30, 2017. The Phase 4B improvements are for the channel reach of Soldier Wash between Brewer Road and Portal Lane, and construction is currently scheduled between November 1, 2017 and June 30, 2018. Each of the two portions/phases of the “Phase 4 Improvements Project” or “Project” is anticipated to take approximately four months to construct. Phase 4 is the last phase of the Brewer Road / Tlaquepaque Drainage Improvements Project that requires a financial contribution from Los Abrigados and/or TLAQ Partners LLC.
 - Phase 5 (final phase) – Upgrading the existing Soldier Wash crossing at Brewer Road. Phase 5 is expected to be constructed between September 30, 2017 and June 30, 2018. Phase 5 will be entirely designed and constructed using City of Sedona funding (a financial contribution from Los Abrigados is not required for Phase 5).

The completion of these phases will increase the conveyance of Soldier Wash to 2,200 cubic feet per second, which is the 25-year storm event. During larger storm events, Los Abrigados may still experience flooding.

- H. It is in both the interest and welfare of the general public and in the best interests of the City of Sedona and Los Abrigados that the above-described improvements to Soldier Wash be constructed in order to mitigate future flooding of both public and private property. To that end, the three parties (Los Abrigados, City and TLAQ Partners, LLC (“TLAQ”)) wish to financially participate in the construction of the Phase 4 improvements. Los Abrigados and Tlaquepaque will each contribute \$250,000 and the City will be responsible for the approximate \$1,500,000 balance of the \$2,000,000 total Phase 4 construction costs.
- I. Los Abrigados desires to work with the City as a public sponsor of the Phase 4 Improvements, and the City is willing to participate in the Phase 4 Improvements Project as the public sponsor as further described in this Agreement.
- J. The Project is detailed in the construction plans titled “Brewer Road / Tlaquepaque Drainage Improvements – Phase 4”.

- K. The obligations of TLAQ as mentioned herein are being memorialized by way of a separate agreement containing identical or substantially similar terms as this Agreement (the "TLAQ Agreement"). It is understood that the terms and conditions of this Agreement are contingent upon the execution of the TLAQ agreement, and that if the TLAQ Agreement is not executed, this Agreement becomes null and void.

NOW, THEREFORE, in consideration of the foregoing, and of the mutual promises and the covenants and agreements set forth below, the Parties agree as follows:

AGREEMENTS

- A. Accuracy of the Recitals. The Parties hereby acknowledge the accuracy of the Recitals, which are incorporated herein by this reference.
- B. Term. Once executed by the Parties, the term of this Agreement shall be deemed to commence as of the date that this Agreement is fully executed, and shall continue for two (2) years thereafter.
- C. Financial Contributions for the Project. The City, Los Abrigados, and TLAQ shall each share as follows for the contract costs of the Project: Los Abrigados and TLAQ shall each make financial contributions for \$250,000.00 of the Phase 4 Project, while the City will be making financial contributions for the entire balance of the Project, or approximately \$1,500,000. No later than five days after: (1) the full execution of this Agreement, (2) written confirmation that the TLAQ Agreement has been fully executed, (3) written confirmation of an accepted bid amount and that the Job Order has been finalized and is ready for execution, and (4) full execution of the Temporary Access Agreement (as defined below), Los Abrigados will be responsible for paying \$125,000.00 (one-half of their total contribution) toward the construction of the Phase 4 Drainage Improvements. Under the Agreement, Los Abrigados shall pay the balance of an additional \$125,000.00 prior to April 15, 2018. Any amounts above the Accepted Bid Amount or added to the Job Order at any time including during construction, not requested in writing by Los Abrigados, will be the sole responsibility of the City. The award of the Job Order is contingent upon Los Abrigados executing this Agreement.
1. Los Abrigados shall have the right to add to the original scope and extent of the public infrastructure improvements as depicted in the final design drawings for such things as aesthetic improvements, landscaping, or other improvements intended to be to their sole benefit through change orders approved in advance by the City, which approval shall not be unreasonably withheld or delayed. Los Abrigados shall submit actual plans and specifications for any augmented improvements to the City, as well as bids or proposals received by Los Abrigados to construct the augmented improvements, for the City's review and approval. The additional cost of any such augmented improvements shall be borne solely by the Party requesting the improvement, and one hundred percent (100%) of the funding shall be submitted to the City before any change order implementing the improvements is authorized.
 2. Improvements made by Los Abrigados, as noted above, after contract time is no longer available for such improvements, shall be accomplished through a City Right of Way Permit. If a City Right of Way Permit is obtained for this purpose, within 2-years of the

contract Final Completion date issued by the City Engineer, the permit fee will be waived.

- D. City Duty to Obtain Permits; Applicable Laws. The City shall obtain any and all necessary permits, licenses and approvals from either the Coconino County Flood Control District or the Corps of Engineers, or other applicable entity (collectively, "Approvals"), and require that Contractor and all other third parties obtain all necessary, or required Approvals, in order to construct, operate, repair, or that are otherwise required for, the Phase 4 Improvements. The City shall obtain, and shall maintain, all necessary approvals, permits, consents, and authorizations from all governmental authorities and other persons or entities necessary for the City ownership, maintenance, operation, repair, and replacement of the augmented public infrastructure improvements. City hereby agrees to abide, and shall insure that City and all City personnel and officials, abide by, all applicable federal, state and local laws, codes, statutes, rules, regulations and ordinances, including, but not limited to, the United States Foreign Corrupt Practices Act and all other anti-corruption and anti-bribery laws and regulations ("Applicable Laws") and shall require and insure that all employees, contractors, vendors and service providers that are retained by Contractor, City or any other party for the Project shall abide by all Applicable Laws. City shall provide Los Abridados with copies of all such permits and licenses to Diamond promptly upon request but in no case more than five (5) days thereafter.
- E. Access/Right of Way. Los Abridados will grant the City and Contractor temporary access to the Property for purposes of completing the Project conditioned upon and subject to the execution of a separate written temporary access agreement with such terms and conditions required by Los Abridados ("Temporary Access Agreement") and Los Abridados shall have the right to terminate this Agreement without penalty if the Contractor fails or refuses to execute the Temporary Access Agreement. It is the desire of the City to have the cooperation of Los Abridados in granting "rights-of-way" to the City for permanent legal access for the purpose of maintaining the Soldier Wash drainage improvements.
- F. Lien Waivers. City warrants that City and Contractor shall make any and all payments related to the Project in a timely manner and shall obtain and deliver to Los Abridados copies of all original waivers of mechanics' liens in form satisfactory to Los Abridados and executed by Contractor and each subcontractor, supplier, material supplier, or other vendor that provided any work, service, materials, equipment, or labor to the Project, for all work performed, or services, materials, equipment, or labor supplied to date of any such payment, and covering in full, all labor, materials, services, labor, or equipment for which a mechanics' lien could be filed against the real property of Los Abridados (each, a "Lien Waiver"). Upon completion of the Project, City and Contractor shall submit to Los Abridados a final invoice covering all work related to the Project, together with such other documentation of such services as Los Abridados shall reasonably request together with final Lien Waivers.
- G. Performance. City shall require that (1) Contractor and Service Providers (as that term is defined below) diligently and in good faith pursue completion of all work associated with the Project and perform all such work in a good, professional and workmanlike manner and in accordance with all industry standards, contractual requirements and Applicable Laws and (2) Contractor and Service Providers shall at all times enforce strict discipline and good order among, require the highest levels of professionalism and courtesy by, and be responsible for any

and all injury or damage to any person and property caused by, Contractor and Service Provider's employees and other persons carrying out any work related to the Project.

H. City Representations and Warranties. The City represents, warrants, and covenants to Los Abrigados that all the City's representations, findings, warranties, and covenants set forth in this Agreement are true in all material respects as of the date of this Agreement.

- That the City is a duly organized, validly existing municipal corporation in the State of Arizona. The transactions contemplated by this Agreement, the execution of this Agreement, and the City's performance hereunder have been duly authorized by all requisite action of the City, and no other approval or consent is required for this Agreement to be binding upon the City. The individuals executing this Agreement have all necessary authority to enter into this Agreement and to bind the City. The execution of this Agreement and the consummation of the transactions contemplated hereby will not result in any violation of, or default under, any term or provision of any applicable Agreement, instrument, law, rule, regulation, or official policy to which the City is a Party or by which the City is bound.

I. Los Abrigados Representations and Warranties. Los Abrigados represents, warrants, and covenants to the City that each of their respective representations, warranties, and covenants set forth in this Agreement are true in all material respects as of the date of this Agreement.

- That Los Abrigados is duly organized, a validly existing corporation licensed to do business in the State of Arizona. The transactions contemplated by this Agreement, the execution of this Agreement, and Los Abrigados' performance hereunder have been duly authorized by all requisite action, and no other approval or consent is required for this Agreement to be binding upon Los Abrigados. The individuals executing this Agreement have all necessary authority to enter into this Agreement and to bind Los Abrigados. The execution of this Agreement and the consummation of the transactions contemplated hereby will not result in any violation of, or default under, any term or provision of any applicable Agreement, instrument, law, rule, regulation, or official policy to which Los Abrigados is a Party or by which Los Abrigados is bound.

J. Mediation, Arbitration, and Default.

1. Mediation. If a dispute arises out of or related to this Agreement, or the breach thereof, and if the dispute cannot be settled through negotiation, the Parties agree first to try to settle the dispute through mediation before resorting to arbitration, litigation, or some other dispute resolution procedure. The parties agree to engage in a good faith effort to select a mutually acceptable mediator.
2. Arbitration. If the mediation procedure set forth in the mediation paragraph above does not resolve a dispute, then the Parties may, without obligation to do so, jointly agree to subject such dispute to non-binding arbitration, pursuant to the rules of the American Arbitration Association, or other arbitration organization acceptable to the Parties.
 - a. If the Parties do jointly agree to subject such dispute to such arbitration, then the decision of the arbitrator(s) shall be in accordance with the laws of the State of

Arizona and the United States. The arbitrator(s) shall prepare written findings of fact and conclusions of law upon which the decision and award shall be based.

- b. The arbitration shall occur within the County of Coconino, unless the Parties agree otherwise in writing.
 - c. Unless otherwise agreed in writing, and notwithstanding any other rights or obligations of any of the Parties under the Agreement, the City, and Los Abridados shall carry on with the performance of their respective duties, obligations, and services hereunder during the pendency of any claim, dispute, or other matter in question giving rise to arbitration or mediation, as the case may be.
 - d. The dispute resolution process set forth in this Agreement shall not apply to an action by the City to condemn or acquire by inverse condemnation all or any portion of the Los Abridados property, or to claims for injunction relief or mandamus by any Party.
3. Default and Cure Period. The failure by any Party to perform or otherwise act in accordance with any term or provision of this Agreement for a period of ten (10) days (the "Cure Period"), after written notice thereof from any other Party, shall constitute a default. In the event such default is not cured within the Cure Period, any non-defaulting Party shall have the right to seek all its rights and remedies, including injunctive relief or mandamus, in a court of competent jurisdiction. In all such cases of breach, the breaching Party shall diligently undertake all reasonable efforts to cure the breach prior to the expiration of the Cure Period.
- K. Notices and Filings. All notices and other communications required or permitted to be given hereunder shall be in writing and shall be sent by: (1) certified or registered mail, postage prepaid, return receipt requested; (2) personal delivery or (3) recognized overnight delivery service. Such notices and communications shall be addressed as follows, or to such other addresses as any Party hereto may from time to time designate in writing and deliver in a like manner:

City	Los Abridados
Justin Clifton City Manager City of Sedona 102 Roadrunner Drive Sedona, AZ 86336 Phone No: 928-204-7127	Sedona Vacation Club, Inc. Attn: General Counsel 10600 West Charleston Blvd. Las Vegas, Nevada 89135 With copies also sent by email to: notices@diamondresorts.com

Notice shall be deemed to have been given upon receipt or refusal. The telephone numbers listed above are for purposes of providing the same to overnight delivery services, and are not to be otherwise used for notice purposes.

- L. Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the City, or Los Abridados of the breach of any covenant of this Agreement shall be

construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

- M. Termination. Prior to issuance of a Notice to Proceed for the improvements, this Agreement may be terminated without cause by either Party upon written notice to the non-termination Party. After execution of the Job Order, this Agreement may only be terminated upon mutual consent of the Parties or by either Party for any material breach of this Agreement in accordance with the termination provisions provided herein.
- N. Indemnification. Los Abridados agrees to indemnify and hold harmless the City, its elected officials, appointees, employees, affiliates, agents, assigns and successors from any liability for claims, suits, losses, damages to persons or property, including investigation and expert witness and attorney's fees, arising as a result of Los Abridados' breach of this Agreement or for any injury or death resulting from Los Abridados' negligence. City agrees to indemnify and hold harmless Los Abridados, its parents, subsidiaries and affiliates and each of their respective owners, managers, officers, directors, employees, members, and successors from any liability for claims, suits, losses, damages to persons or property, including investigation and expert witness and attorney's fees, arising as a result of City's breach of this Agreement or for any injury or death resulting from City's negligence. This section shall survive the expiration or termination of this Agreement for any reason whatsoever.
- O. Insurance. Upon City's execution of this Agreement, City shall furnish Los Abridados with the certificates of insurance and endorsements that meet the requirements described in Exhibit "B" ("Insurance Requirements"). Service Provider understands and agrees that all insurance procured by Service Provider is primary and non-contributory over any insurance held by Diamond and is intended to respond to any Indemnification Event. Diamond shall have the sole and unconditional right to terminate this Agreement with written notice to Service Provider if Service Provider fails or refuses to satisfy the Insurance Requirements.
- P. Attorneys' Fees. In the event any Party finds it necessary to bring any action at law or other proceeding, including arbitration, against another Party to enforce any of the terms, covenants, or conditions hereof, or by reason of any breach or default hereunder, the Party prevailing in any such action or other proceeding shall be paid all reasonable and documented costs and reasonable attorneys' fees, including appellate court costs and attorneys' fees, as set forth in A.R.S. § 12-341 et seq.
- Q. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts, and such signature pages all attached to a single instrument so that the signature of all Parties may be physically attached to a single document. Facsimile and scanned signatures shall be deemed to be original signatures for purposes of executing this Agreement and amendments hereto and for purposes of issuing all instructions authorized or permitted hereunder.
- R. Headings. The descriptive headings of the paragraphs of this Agreement are inserted for convenience only, and shall not control or affect the meaning or construction of any of the provisions hereof.

- S. Exhibits. The exhibits attached hereto, and incorporated by this reference, shall have the same force and effect as if fully set forth in the body hereof.
- T. Further Acts. Each of the Parties hereto shall execute and deliver all such documents and perform all such acts as reasonably necessary, from time to time, to carry out the matters contemplated by this Agreement. Without limiting the generality of the foregoing, each of the Parties shall cooperate in good faith regarding the prompt processing of any requests and applications for plan and specification, plat or permit approvals or revisions, and other necessary approvals relating to the development of the property in construction of the infrastructure improvements.
- U. Time of the Essence. Time is of the essence of this Agreement.
- V. Assignment. This Agreement may not be assigned without the express written consent of the non-assigning Parties. Consent shall not be unreasonably withheld.
- W. No Partnership and Third Parties. It is not intended by this Agreement, and nothing contained in this Agreement shall, create any partnership, joint venture, or other similar arrangement between Los Abridados, and the City. No term or provision of this Agreement is intended to, or shall, be for the benefit of any person, firm, organization, or corporation not a party hereto, and no such other person, firm, organization, or corporation shall have any right or cause of action hereunder.
- X. Entire Agreement. This Agreement constitutes the entire agreement between the Parties hereto pertaining to the subject matter hereof. All prior and contemporaneous agreements, representations, and understandings of the Parties, oral or written, are hereby superseded and merged herein.
- Y. Amendment. No change or additions are to be made to this Agreement except by written amendment executed by the Parties hereto.
- Z. Governing Law. This Agreement is entered into in Arizona, and shall be construed and interpreted under the laws of the State of Arizona. In particular, this Agreement is subject to the provisions of Arizona Revised Statutes § 38-511.
- AA. Recordation. No later than ten (10) days after this Agreement has been executed by the Parties, it shall be recorded in its entirety by the City in the Official Records of Coconino County, Arizona.
- BB. Reformation. Should any term, provision, covenant, or condition of this Agreement be held to be void or invalid, the Parties shall reform this Agreement to conform as closely as possible to the original intent thereof.
- CC. Excused Delay in Performance. In addition to specific provisions of this Agreement, for a period of time equal to the period of the force majeure delay, untimely performance by a Party hereto shall not be deemed to be a default where delays or inability to perform are due to war, insurrection, strikes, slowdowns, lockouts, riots, floods, earthquake, fires, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, lack of

transportation, governmental restrictions or priority (including, but not by way of limitation, referendums), litigation, severe weather, acts or the failure to act of any utility, public, or governmental agent or entity, and/or other causes beyond the reasonable control of said Party. In the event that a Party hereto is unable to perform due to an event constituting force majeure as provided for above, then the time for performance by said Party shall be extended as necessary for a period of time up to the period of the force majeure delay.

- DD. Venue. Any legal action relating to this Agreement may be brought in the Coconino County Superior Court, provided, however, that nothing in this paragraph will be deemed to have authorized the bringing of any legal action in a court that does not otherwise have jurisdiction to adjudicate the legal action.
- EE. Severability. Every provision of this Agreement is, and will be construed to be, a separate and independent covenant. If any provision of this Agreement or the application of the same is, to any extent, found to be invalid or unenforceable, then the remainder of this Agreement or the application of that provision to circumstances other than those to which it is invalid or unenforceable, will not be affected by that invalidity or unenforceability, and each provision of this Agreement will be valid and will be enforced to the extent permitted by the law, and the Parties will negotiate in good faith for such amendments of this Agreement that may be necessary to achieve its intent, notwithstanding such invalidity or unenforceability.
- FF. Rights of Successors. This Agreement shall bind and inure to the benefit of the Parties hereto, their respective heirs, representatives, lessees, successors, and assigns. The singular number includes the plural, and the masculine gender includes the feminine and neuter.
- GG. Confidentiality. This Agreement is discoverable under Arizona statute and rule.

IN WITNESS WHEREOF, we have hereunto set our hands and seals on the date and year first above written.

CITY OF SEDONA, an Arizona municipal corporation

By Sandra Moriarty
Sandy Moriarty, Mayor

Attest Susan L. Irvine
Susan Irvine, City Clerk

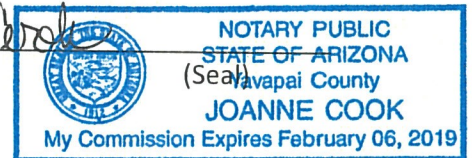
APPROVED AS TO FORM:

[Signature]
City Attorney

STATE OF ARIZONA)
County of Yavapai) ss

SUBSCRIBED AND SWORN TO before me this 30 day of January, 2017 by Sandy Moriarty, Mayor of the **CITY OF SEDONA**, an Arizona municipal corporation, on behalf of the municipal corporation.

Jo Anne Cook
Notary Public



Sedona Vacation Club Incorporated, an Arizona Corporation

By _____ Its _____
[Printed Name]

STATE OF _____)
County of _____) ss

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 20____ by _____ of **Sedona Vacation Club Incorporated**, an Arizona Corporation, on behalf of the corporation.

Notary Public (Seal)

The Inn at Los Abridados Owners Association, an Arizona Corporation

By _____ Its _____

[Printed Name]

STATE OF _____)
_____) ss
County of _____)

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 20____
by _____, _____ **The Inn at Los Abridados Owners Association, an Arizona Corporation, on behalf of the corporation.**

Notary Public (Seal)

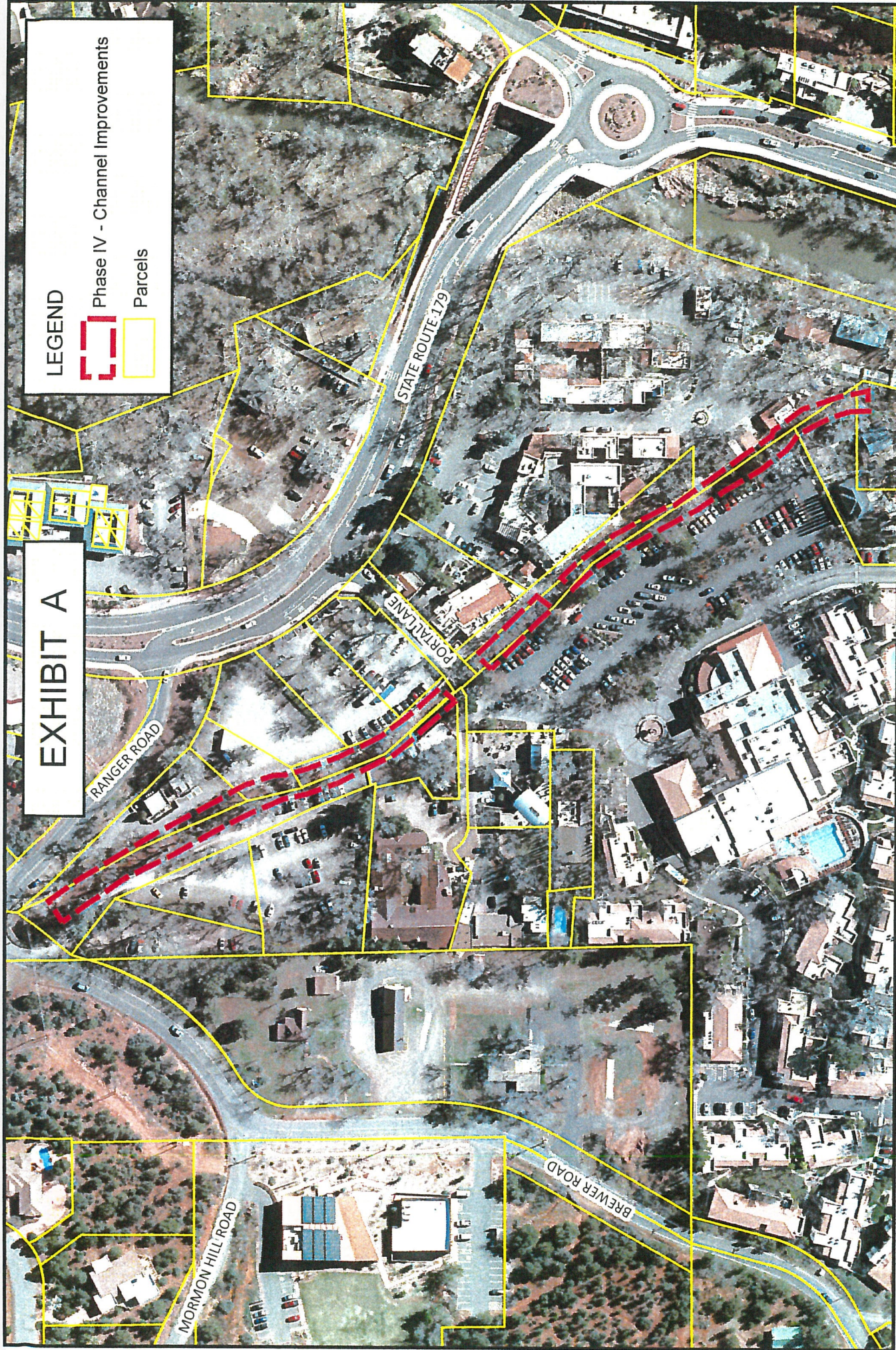
EXHIBIT A

LEGEND

Phase IV - Channel Improvements



Parcels



0 45 90 180 Feet

Brewer Road / Tlaquepaque Drainage Project Phase IV - Soldier Wash Channel Improvements

This map is designed to provide as-is information only. The data is not accurate to engineering or surveying standards. The City of Sedona is not liable or responsible for loss or damages rising from the data contained on this map.

Exhibit "B"
Insurance Requirements

City, Contractor and all subcontractors, service providers and material suppliers retained for the Project (collectively, "Service Providers") must submit verification of insurance by providing a certificate of insurance on a standard ACORD 25-S form issued by a carrier with an S&P or Best rating not less than A-VII, unless otherwise approved in writing by Diamond.

The Certificate must include:

1. Additional insured endorsement for general liability naming **Sedona Vacation Club Incorporated, the Inn at Los Abrigados Owners Association, Diamond Resorts International**, and each of their respective parents, subsidiaries and affiliates and each of their officials, shareholders, principals, members, managers, officers, directors, employees and agents. Coverage is primary and non-contributory. The additional insured endorsement shall state that the coverage provided to the additional insureds is primary and non-contributing with respect to any other insurance available to the additional insureds.
2. A copy of the endorsement must be provided on form CG 2010 and form CG 2037 if applicable to service being provided.
3. The Certificate must also evidence that each carrier has provided Waivers of Subrogation in favor of Diamond as referenced in the Agreement.
4. Commercial General Liability insurance on an occurrence coverage form, at least as broad as the Insurance Services Office Commercial General Liability Policy form CG 0001©.
5. Additionally the policy(s) may not contain exclusions for residential or subsidence. Both must be evidenced on the certificate of insurance.
6. Certificate Holders must read:
Sedona Vacation Club Incorporated, and the Inn at Los Abrigados Owners Association
10600 W. Charleston Blvd.
Las Vegas, NV 89135

For City, Contractor and all Service Providers, the following minimum and unimpaired limits of insurance (unless higher limits required by law or statute) are required. In addition to procuring and maintaining this insurance throughout the duration of the Agreement, City and Contractor agree to continue to procure and maintain products and completed operations liability insurance coverage following completion of the Project for a period of one year.

Workers' Compensation and Employer's Liability

Part One - Workers' Compensation: Statutory Limit

Part Two - Employer's Liability: Annual Limits:

Bodily Injury by Accident, each Accident: \$ 1,000,000

Bodily Injury by Disease, each Employee \$ 1,000,000

Bodily Injury by Disease, Policy Limit: \$ 1,000,000

Commercial General Liability

General Aggregate \$2,000,000

Products/Completed Operations Aggregate \$2,000,000

Personal/Advertising Injury \$1,000,000
Each Occurrence Limit \$1,000,000

Coverage is required to be on an Occurrence form and shall apply to bodily injury and property damage for operations including independent contractors, products and completed operations.

Umbrella/Excess Liability

General Aggregate \$2,000,000
Each Occurrence Limit \$2,000,000

Limits can be provided by a combination of a primary Commercial General Liability policy and Excess or Umbrella Liability policy.

Automobile Liability

Commercial Business Auto Policy covering all owned, hired and non-owned automobiles, trucks and trailers with coverage limits not less than **\$1,000,000 Combined Single Limit** each accident for Bodily Injury and Property Damage. Coverage will apply both on and away from the Project site. All subcontractors shall be required to maintain limits of not less than **\$1,000,000 Combined Single Limit**.

Property Insurance

City, Contractor and Service Providers are solely responsible for their own insurance for owned and leased equipment and materials, whether such equipment is located at the Project site or "in transit". Service providers are solely responsible for any loss or damage to their personal property including, without limitation, property or materials created or provided under the Agreement until installed at the Project site, service provider tools and equipment, and scaffolding and temporary structures, whether owned, used, leased, or rented by Service provider.

Note: Waivers Required

All Workers' Compensation, General Liability, Automobile, Umbrella or Excess Liability and Property insurers, including Contractor's equipment, shall waive all claims.

EXHIBIT B

Public Infrastructure Cost-Sharing Agreement

This Public Infrastructure Cost-Sharing Agreement ("Agreement") is entered into as of this 24th day of January, 2017, by and between the City of Sedona ("City"), and TLAQ Partners, LLC, Horn/Sedona, LLC, CMR/Sedona, LLC and Ragland/Sedona, LLC (collectively "Tlaquepaque"). City and Tlaquepaque may be referred to individually as "Party" and collectively as the "Parties".

RECITALS

A. Tlaquepaque is the owner of real property ("Tlaq Property") located within the limits of the City and on the eastern bank of a natural drainage channel known as "Soldier Wash."

B. In 1975, Coconino County vacated a portion of Soldier Wash Drive, currently identified as Parcel No. 401-18-078, to Duncan McDonald by Planning & Zoning Resolution No. 358, recorded on March 23, 1979, Docket No. 728, Page 570-574.

C. Upon incorporation in 1988, the City of Sedona acquired the prior rights and obligations to the Soldier Wash drainage channel that had previously been held by Coconino County, Arizona.

D. In 1992, The City constructed a retaining wall approximately 90 feet long and eight feet high along the east bank of Soldier Wash and within Soldier Wash Drive to accommodate construction of the Brewer Road Pump Station in accordance with the Engineering Science Plans dated November 18, 1991.

E. In 1993, The City vacated a portion of Soldier Wash Drive, currently identified as Parcel No. 401-18-079, to Sal Sagev (predecessor of Tlaquepaque). This was related to the Eminent Domain settlement for the City's acquisition of the Brewer Road Pump Station property and adopted by City Resolution No. 93-34, recorded July 28, 1993, Docket No. 1583, Page 217.

F. The natural drainage channel known as Soldier Wash, which is located on the west side of the Tlaquepaque property, south of the Portal Lane crossing, and as depicted in the attached Exhibit "A," has in years past been the location of catastrophic flooding. Prior to Tlaquepaque's ownership of the Tlaq Property this natural channel has undergone significant man-made modification in years preceding the incorporation of the City in order to accommodate private development. These changes include, but are not limited to, man-made embankments, bridges, and walkways. To the knowledge of Tlaquepaque, these changes / additions were constructed in compliance with the rules and regulations adopted at the time.

G. In 2005, a Storm Water Master Plan was completed for the City by Dibble & Associates. This Plan identified the Soldier Wash Basin as one of five major drainage basins within the City. The Plan also identified only \$423,158 in capital improvements that were recommended to be accomplished in the 11th year of 15 implementation years. The improvements identified were for the City Rights-of-Way / Soldier Wash Crossing areas of Brewer Road and Portal Lane.

H. Arizona Revised Statutes § 9-500.05 authorizes the City to enter into a development agreement with a land owner or any other person having an interest in real property to facilitate development of the real property by providing for, among other things, the conditions, terms, restrictions, and requirements for public infrastructure and the financing of public infrastructure.

I. On January 24, 2017 (the "Effective Date"), the City Council adopted Resolution No. 2017-03, which approved and authorized the execution and delivery of this Agreement.

J. In 2013, the City paid for an engineering study to propose improvements that could be made to Soldier Wash. This study, conducted by Shephard-Wesnitzer, Inc., identified three successive construction and improvement alternatives that could be built to mitigate future flooding. These three channel improvement alternatives are identified as follows:

1. Alternative 1: Identifying and removing the existing obstructions at the channel banks to increase flow area.

2. Alternative 2: Construction of training walls near the top of banks to increase channel capacity and prevent flooding of the overbanks.

3. Alternative 3: Removal of the existing double box culverts at Portal Lane and the pedestrian walkway between the Los Abrigados and Tlaquepaque properties and replacement with clear span bridge crossings, and removal/replacement of bank stabilization to increase channel flow area.

Note: In 2013, these were the only three alternatives that Tlaquepaque petitioned to the City to perform and agreed to financially contribute to. Tlaquepaque and the City have met their obligations with regard to these three alternatives of interim improvements.

K. In 2014, the Alternatives indicated in Recital J were restructured, and Phase 4 was added to make up the following phases of design and construction:

- Phase 1 – The portion of Alternatives 1 and 2 between Brewer Road and Portal Lane. Construction of this phase was completed in February 2014.
- Phase 2 – The remainder of Alternatives 1 and 2 downstream of Portal Lane. Construction of this phase was completed in July 2015.
- Phase 3 – The work described in Alternative 3 (the replacement of the Portal Lane Bridge and the Pedestrian Bridge). Construction of this phase was completed in June 2016.
- Phase 4 – This phase will be split into two phases, Phase 4A and Phase 4B. The Phase 4A improvements include the channel reach of Soldier Wash between Portal Lane and Oak Creek, and construction is currently scheduled between January 1, 2017 and June 30, 2017. The Phase 4B improvements are for the channel reach of Soldier Wash between Brewer Road and Portal Lane, and construction is currently scheduled between November 1, 2017 and June 30, 2018. Each of the two portions/phases of the "Phase 4 Improvements Project" or "Project" is anticipated to take approximately four months to construct. After Phase 4, Tlaquepaque has no desire or intention to participate in any additional phases of improvements.

The completion of these phases, as well as upgrading the existing Soldier Wash crossing at Brewer Road, will increase the conveyance of Soldier Wash to 2,200 cubic feet per second, which is the 25-year storm event. During larger storm events, Tlaquepaque may still experience flooding. A financial contribution from Tlaquepaque is not required for the Soldier Wash crossing improvements at Brewer Road.

L. It is in both the interest and welfare of the general public and in the best interests of the City of Sedona and Tlaquepaque that the above-described improvements to Soldier Wash be constructed in order to mitigate future flooding of both public and private property. To that end, the three parties (Tlaquepaque, City and Los Abridados) wish to financially participate in the construction of the Phase 4 improvements. Tlaquepaque and Los Abridados will each contribute \$250,000 and the City will be responsible for the approximate \$1,500,000 balance of the \$2,000,000 total Phase 4 construction costs.

M. Tlaquepaque desires to work with the City as a public sponsor of the Phase 4 Improvements, and the City is willing to participate in the Phase 4 Improvements Project as the public sponsor as further described in this Agreement.

N. The Project is detailed in the construction plans titled "Brewer Road / Tlaquepaque Drainage Improvements – Phase 4".

O. The obligations of Los Abridados as mentioned herein are being memorialized by way of a separate agreement containing identical or substantially similar terms as this Agreement (the "Los Abridados Agreement"). It is understood that the terms and conditions of this Agreement are contingent upon the execution of the Los Abridados agreement, and that if the Los Abridados Agreement is not executed, this Agreement becomes null and void.

NOW, THEREFORE, in consideration of the foregoing, and of the mutual promises and the covenants and agreements set forth below, the Parties agree as follows:

AGREEMENTS

A. Accuracy of the Recitals. The Parties hereby acknowledge the accuracy of the Recitals, which are incorporated herein by this reference.

B. Term. Once executed by the Parties, the term of this Agreement shall be deemed to commence as of the date that this Agreement is fully executed, and shall continue for two (2) years thereafter.

C. Financial Contributions for the Project. The City, Tlaquepaque, and Los Abridados shall each share as follows for the contract costs of the Project: Tlaquepaque and Los Abridados shall each make financial contributions for \$250,000.00 of the Phase 4 Project, while the City will be making financial contributions for the entire balance of the Project, or approximately \$1,500,000. No later than five days after: (1) the full execution of this Agreement, (2) written confirmation that the Los Abridados Agreement has been fully executed, (3) written confirmation of an accepted bid amount and that the Job Order has been finalized and is ready for execution, and (4) full execution of the Temporary Access Agreement (as defined below), Tlaquepaque will be responsible for paying \$12,500.00 (one-twentieth of their total contribution) toward the construction of the Phase 4 Drainage Improvements. Under the Agreement, Tlaquepaque shall pay an additional \$12,500.00 on a quarterly basis, beginning on April 15, 2017, until the sum of their total contributions equal \$250,000.00. Quarterly payment due dates are as follows: January 15, April 15, July 15, and October 15 of each year, with the final payment occurring on October 15, 2021. Any amounts above the Accepted Bid Amount or added to the Job Order at any time including during construction, not requested in writing by Tlaquepaque, will be the sole responsibility of the City. The award of the Job Order is contingent upon Tlaquepaque executing this Agreement.

1. Tlaquepaque shall have the right to add to the original scope and extent of the public infrastructure improvements as depicted in the final design drawings for such things as aesthetic improvements, landscaping, or other improvements intended to be to their sole benefit through change orders approved in advance by the City, which approval shall not be reasonably withheld or delayed.

Tlaquepaque shall submit actual plans and specifications for any augmented improvements to the City, as well as bids or proposals received by Tlaquepaque to construct the augmented improvements, for the City's review and approval. The additional cost of any such augmented improvements shall be borne solely by the Party requesting the improvement, and one hundred percent (100%) of the funding shall be submitted to the City before any change order implementing the improvements.

2. Improvements made by Tlaquepaque, as noted above, after contract time is no longer available for such improvements, shall be accomplished through a City Right of Way Permit. If a City Right of Way Permit is obtained for this purpose, within 2-years of the contract Final Completion date issued by the City Engineer, the permit fee will be waived.

D. City Duty to Obtain Permits; Applicable Laws. The City shall obtain any and all necessary permits, licenses and approvals from either the Coconino County Flood Control District or the Corps of Engineers, or other applicable entity (collectively, "Approvals"), and require that Contractor and all other third parties obtain all necessary or required Approvals, in order to construct, operate, repair, or that are otherwise required for, the Phase 4 Improvements. The City shall obtain, and shall maintain, all necessary approvals, permits, consents, and authorizations from all governmental authorities and other persons or entities necessary for the City ownership, maintenance, operation, repair, and replacement of the augmented public infrastructure improvements. City hereby agrees to abide, and shall insure that City and all City personnel and officials, abide by, all applicable federal, state and local laws, codes, statutes, rules, regulations and ordinances, including, but not limited to, the United States Foreign Corrupt Practices Act and all other anti-corruption and anti-bribery laws and regulations ("Applicable Laws") and shall require and insure that all employees, contractors, vendors and service providers that are retained by Contractor, City or any other party for the Project shall abide by all Applicable Laws. City shall provide Tlaquepaque with copies of all such permits and licenses promptly upon request but in no case more than five (5) days thereafter.

E. Access/Right of Way. Tlaquepaque will grant the City and Contractor temporary access to the Property for purposes of completing the Project conditioned upon and subject to the execution of a separate written temporary access agreement with such terms and conditions required by Tlaquepaque ("Temporary Access Agreement") and Tlaquepaque shall have the right to terminate this Agreement without penalty if the Contractor fails or refuses to execute the Temporary Access Agreement.

F. Lien Waivers. City warrants that City and Contractor shall make any and all payments related to the Project in a timely manner and shall obtain and deliver to Tlaquepaque copies of all original waivers of mechanics' liens in form satisfactory to Tlaquepaque and executed by Contractor and each subcontractor, supplier, material supplier, or other vendor that provided any work, service, materials, equipment, or labor to the Project, for all work performed, or services, materials, equipment, or labor supplied to date of any such payment, and covering in full, all labor, materials, services, labor, or equipment for which a mechanics' lien could be filed against the real property of Tlaquepaque (each, a "Lien Waiver"). Upon completion of the Project, City and Contractor shall submit to Tlaquepaque a final invoice covering all work related to the Project, together with such other documentation of such services as Tlaquepaque shall reasonably request together with final Lien Waivers.

G. Performance. City shall require that (1) Contractor and Service Providers (as that term is defined below) diligently and in good faith pursue completion of all work associated with the Project and perform all such work in a good, professional and workmanlike manner and in accordance with all industry standards, contractual requirements and Applicable Laws and (2) Contractor and Service Providers shall at all times enforce strict discipline and good order among, require the highest levels of professionalism and courtesy by, and be responsible for any and all injury or damage to any person and property caused by, Contractor and Service Provider's employees and other persons carrying out any work related to the Project.

H. City Representations and Warranties. The City represents, warrants, and covenants to Tlaquepaque that all the City's representations, findings, warranties, and covenants set forth in this Agreement are true in all material respects as of the date of this Agreement.

- That the City is a duly organized, validly existing municipal corporation in the State of Arizona. The transactions contemplated by this Agreement, the execution of this Agreement, and the City's performance hereunder have been duly authorized by all requisite action of the City, and no other approval or consent is required for this Agreement to be binding upon the City. The individuals executing this Agreement have all necessary authority to enter into this Agreement and to bind the City. The execution of this Agreement and the consummation of the transactions contemplated hereby will not result in any violation of, or default under, any term or provision of any applicable Agreement, instrument, law, rule, regulation, or official policy to which the City is a Party or by which the City is bound.

I. Tlaquepaque Representations and Warranties. Tlaquepaque represents, warrants, and covenants to the City that each of their respective representations, warranties, and covenants set forth in this Agreement are true in all material respects as of the date of this Agreement.

- That Tlaquepaque is duly organized, a validly existing corporation licensed to do business in the State of Arizona. The transactions contemplated by this Agreement, the execution of this Agreement, and Tlaquepaque's performance hereunder have been duly authorized by all requisite action, and no other approval or consent is required for this Agreement to be binding upon Tlaquepaque. The individuals executing this Agreement have all necessary authority to enter into this Agreement and to bind Tlaquepaque. The execution of this Agreement and the consummation of the transactions contemplated hereby will not result in any violation of, or default under, any term or provision of any applicable Agreement, instrument, law, rule, regulation, or official policy to which Tlaquepaque is a Party or by which Tlaquepaque is bound.

J. Mediation, Arbitration, and Default.

1. Mediation. If a dispute arises out of or related to this Agreement, or the breach thereof, and if the dispute cannot be settled through negotiation, the Parties agree first to try to settle the dispute through mediation before resorting to arbitration, litigation, or some other dispute resolution procedure. In the event the Parties cannot agree upon the selection of a mediator within seven (7) days, any Party may request the presiding judge of the Superior Court of Coconino County to assign a mediator from a list of mediators maintained by the Arizona Municipal Risk Retention Pool.

2. Arbitration. If the mediation procedure set forth in the mediation paragraph above does not resolve a dispute, then the Parties may, without obligation to do so, jointly agree to subject such dispute to arbitration, pursuant to the rules of the American Arbitration Association, or other arbitration organization acceptable to the Parties. If the Parties cannot jointly agree to subject such dispute to such arbitration, then such dispute shall be subject to litigation through judicial process.

a. If the Parties do jointly agree to subject such dispute to such arbitration, then the decision of the arbitrator(s) shall be in accordance with the laws of the State of Arizona and the United States. The arbitrator(s) shall prepare written findings of fact and conclusions of law upon which the decision and award shall be based.

b. The arbitration shall occur within the County of Coconino, unless the Parties agree otherwise in writing.

c. Unless otherwise agreed in writing, and notwithstanding any other rights or obligations of any of the Parties under the Agreement, the City, and Tlaquepaque shall carry on with the performance of their respective duties, obligations, and services hereunder during the pendency of any claim, dispute, or other matter in question giving rise to arbitration or mediation, as the case may be.

d. The dispute resolution process set forth in this Agreement shall not apply to an action by the City to condemn or acquire by inverse condemnation all or any portion of the Tlaquepaque property, or to claims for injunction relief or mandamus by any Party.

3. Default and Cure Period. The failure by any Party to perform or otherwise act in accordance with any term or provision of this Agreement for a period of ten (10) days (the "Cure Period"), after written notice thereof from any other Party, shall constitute a default. In the event such default is not cured within the Cure Period, any non-defaulting Party shall have the right to seek all its rights and remedies, including injunctive relief or mandamus, in a court of competent jurisdiction. In all such cases of breach, the breaching Party shall diligently undertake all reasonable efforts to cure the breach prior to the expiration of the Cure Period.

K. Notices and Filings. All notices and other communications required or permitted to be given hereunder shall be in writing and shall be sent by: (1) certified or registered mail, postage prepaid, return receipt requested; (2) personal delivery or (3) recognized overnight delivery service. Such notices and communications shall be addressed as follows, or to such other addresses as any Party hereto may from time to time designate in writing and deliver in a like manner:

City	Tlaquepaque
Justin Clifton City Manager City of Sedona 102 Roadrunner Drive Sedona, AZ 86336 Phone No: 928-204-7127	Wendy Lippman Resident Partner Tlaquepaque PO Box 1868 Sedona, AZ 86339

Notice shall be deemed to have been given upon receipt or refusal. The telephone numbers listed above are for purposes of providing the same to overnight delivery services, and are not to be otherwise used for notice purposes.

L. Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the City, or Tlaquepaque of the breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

M. Termination. Prior to issuance of a Notice to Proceed for the improvements, this Agreement may be terminated without cause by either Party upon written notice to the non-termination Party. After execution of the Job Order, this Agreement may only be terminated upon mutual consent of the Parties or by either Party for any material breach of this Agreement in accordance with the termination provisions provided herein.

N. Indemnification. Tlaquepaque agrees to indemnify and hold harmless the City, its elected officials, appointees, employees, affiliates, agents, assigns and successors from any liability for claims, suits, losses, damages to persons or property, including investigation and expert witness and attorney's fees, arising as a result of Tlaquepaque's breach of this Agreement or for any injury or death resulting from Tlaquepaque's negligence. City agrees to indemnify and hold harmless Tlaquepaque, its parents, subsidiaries and affiliates and each of their respective owners, managers, officers, directors, employees, members, and successors from any liability for claims, suits, losses, damages to persons or property, including investigation and expert witness and attorney's fees, arising as a result of City's breach of this Agreement or for any injury or death resulting from City's negligence. This section shall survive the expiration or termination of this Agreement for any reason whatsoever.

O. Insurance. Upon City's execution of this Agreement, City shall furnish Tlaquepaque with the certificates of insurance and endorsements that meet the requirements described in Exhibit "B" ("Insurance Requirements"). Service Provider understands and agrees that all insurance procured by Service Provider is primary and non-contributory over any insurance held by Tlaquepaque and is intended to respond to any Indemnification Event. Tlaquepaque shall have the sole and unconditional right to terminate this Agreement with written notice to Service Provider if Service Provider fails or refuses to satisfy the Insurance Requirements.

P. Attorneys' Fees. In the event any Party finds it necessary to bring any action at law or other proceeding, including arbitration, against another Party to enforce any of the terms, covenants, or conditions hereof, or by reason of any breach or default hereunder, the Party prevailing in any such action or other proceeding shall be paid all reasonable and documented costs and reasonable attorneys' fees, including appellate court costs and attorneys' fees, as set forth in A.R.S. § 12-341 et seq.

Q. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts, and such signature pages all attached to a single instrument so that the signature of all Parties may be physically attached to a single document. Facsimile and scanned signatures shall be deemed to be original signatures for purposes of executing this Agreement and amendments hereto and for purposes of issuing all instructions authorized or permitted hereunder.

R. Headings. The descriptive headings of the paragraphs of this Agreement are inserted for convenience only, and shall not control or affect the meaning or construction of any of the provisions hereof.

S. Exhibits. The exhibits attached hereto, and incorporated by this reference, shall have the same force and effect as if fully set forth in the body hereof.

T. Further Acts. Each of the Parties hereto shall execute and deliver all such documents and perform all such acts as reasonably necessary, from time to time, to carry out the matters contemplated by this Agreement. Without limiting the generality of the foregoing, each of the Parties shall cooperate in good faith regarding the prompt processing of any requests and applications for plan and specifications, plat or permit approvals or revisions, and other necessary approvals relating to the development of the property in construction of the infrastructure improvements.

U. Time of the Essence. Time is of the essence of this Agreement.

V. Assignment. This Agreement may not be assigned without the express written consent of the non-assigning Parties. Consent shall not be unreasonably withheld.

W. No Partnership and Third Parties. It is not intended by this Agreement, and nothing contained in this Agreement shall, create any partnership, joint venture, or other similar arrangement between Tlaquepaque, and the City. No term or provision of this Agreement is intended to, or shall, be for the benefit of any person, firm, organization, or corporation not a party hereto, and no such other person, firm, organization, or corporation shall have any right or cause of action hereunder.

X. Entire Agreement. This Agreement constitutes the entire agreement between the Parties hereto pertaining to the subject matter hereof. All prior and contemporaneous agreements, representations, and understandings of the Parties, oral or written, are hereby superseded and merged herein.

Y. Amendment. No change or additions are to be made to this Agreement except by written amendment executed by the Parties hereto.

Z. Governing Law. This Agreement is entered into in Arizona, and shall be construed and interpreted under the laws of the State of Arizona. In particular, this Agreement is subject to the provisions of Arizona Revised Statutes § 38-511.

AA. Reformation. Should any term, provision, covenant, or condition of this Agreement be held to be void or invalid, the Parties shall reform this Agreement to conform as closely as possible to the original intent thereof.

BB. Excused Delay in Performance. In addition to specific provisions of this Agreement, for a period of time equal to the period of the force majeure delay, untimely performance by a Party hereto shall not be deemed to be a default where delays or inability to perform are due to war, insurrection, strikes, slowdowns, lockouts, riots, floods, earthquake, fires, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority (including, but not by way of limitation, referendums), litigation, severe weather, acts or the failure to act of any utility, public, or governmental agent or entity, and/or other causes beyond the reasonable control of said Party. In the event that a Party hereto is unable to perform due to an event

constituting force majeure as provided for above, then the time for performance by said Party shall be extended as necessary for a period of time up to the period of the force majeure delay.

CC. Venue. Any legal action relating to this Agreement may be brought in the Coconino County Superior Court, provided, however, that nothing in this paragraph will be deemed to have authorized the bringing of any legal action in a court that does not otherwise have jurisdiction to adjudicate the legal action.

DD. Severability. Every provision of this Agreement is, and will be construed to be, a separate and independent covenant. If any provision of this Agreement or the application of the same is, to any extent, found to be invalid or unenforceable, then the remainder of this Agreement or the application of that provision to circumstances other than those to which it is invalid or unenforceable, will not be affected by that invalidity or unenforceability, and each provision of this Agreement will be valid and will be enforced to the extent permitted by the law, and the Parties will negotiate in good faith for such amendments of this Agreement that may be necessary to achieve its intent, notwithstanding such invalidity or unenforceability.

EE. Rights of Successors. This Agreement shall bind and inure to the benefit of the Parties hereto, their respective heirs, representatives, lessees, successors, and assigns. The singular number includes the plural, and the masculine gender includes the feminine and neuter.

FF. Confidentiality. This Agreement is discoverable under Arizona statute and rule.

IN WITNESS WHEREOF, we have hereunto set our hands and seals on the date and year above written.

CITY OF SEDONA, an Arizona municipal corporation

By Sandra J Moriarty
Sandy Moriarty, Mayor

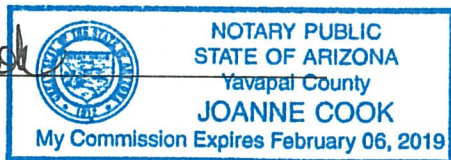
Attest: Susan L Irvine
Susan Irvine, City Clerk

APPROVED AS TO FORM:
[Signature]
City Attorney

STATE OF ARIZONA)
County of Yavapai) ss

SUBSCRIBED AND SWORN TO before me this 30 day of January, 2017 by Sandy Moriarty, Mayor of the **CITY OF SEDONA**, an Arizona municipal corporation, on behalf of the municipal corporation.

[Signature]
Notary Public (Seal)



TLAQ Partners, LLC, an Arizona Limited Liability Company

By _____
Wendy Lippman, Manager

STATE OF ARIZONA)
County of _____) ss

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 20____ by _____ of **TLAQ Partners, LLC**, an Arizona Limited Liability Company, on behalf of the corporation.

Notary Public (Seal)

ADDITIONAL SIGNATURES ON NEXT TWO PAGES

Horn/Sedona, LLC, a Colorado Limited Liability Company

By _____
John J. Horn, Manager

STATE OF COLORADO)
) ss
County of San Miguel)

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 20____ by John J. Horn as Manager of **Horn/Sedona, LLC**, a Colorado Limited Liability Company, on behalf of the corporation.

Notary Public (Seal)

ADDITIONAL SIGNATURES ON NEXT PAGE

CMR/Sedona, LLC, an Arizona Limited Liability Company

By _____
Colleen M. Ragland, Manager

STATE OF ARIZONA)
) ss
County of)

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 20__ by
Colleen M. Ragland as Manager of **CMR/Sedona, LLC**, an Arizona Limited Liability Company, on behalf
of the corporation.

Notary Public (Seal)

Ragland/Sedona, LLC, an Arizona Limited Liability Company

By _____
Colleen M. Ragland, Manager

STATE OF ARIZONA)
) ss
County of)

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 20__ by
Colleen M. Ragland as Manager of **Ragland/Sedona, LLC**, an Arizona Limited Liability Company, on
behalf of the corporation.

Notary Public (Seal)

END OF SIGNATURES

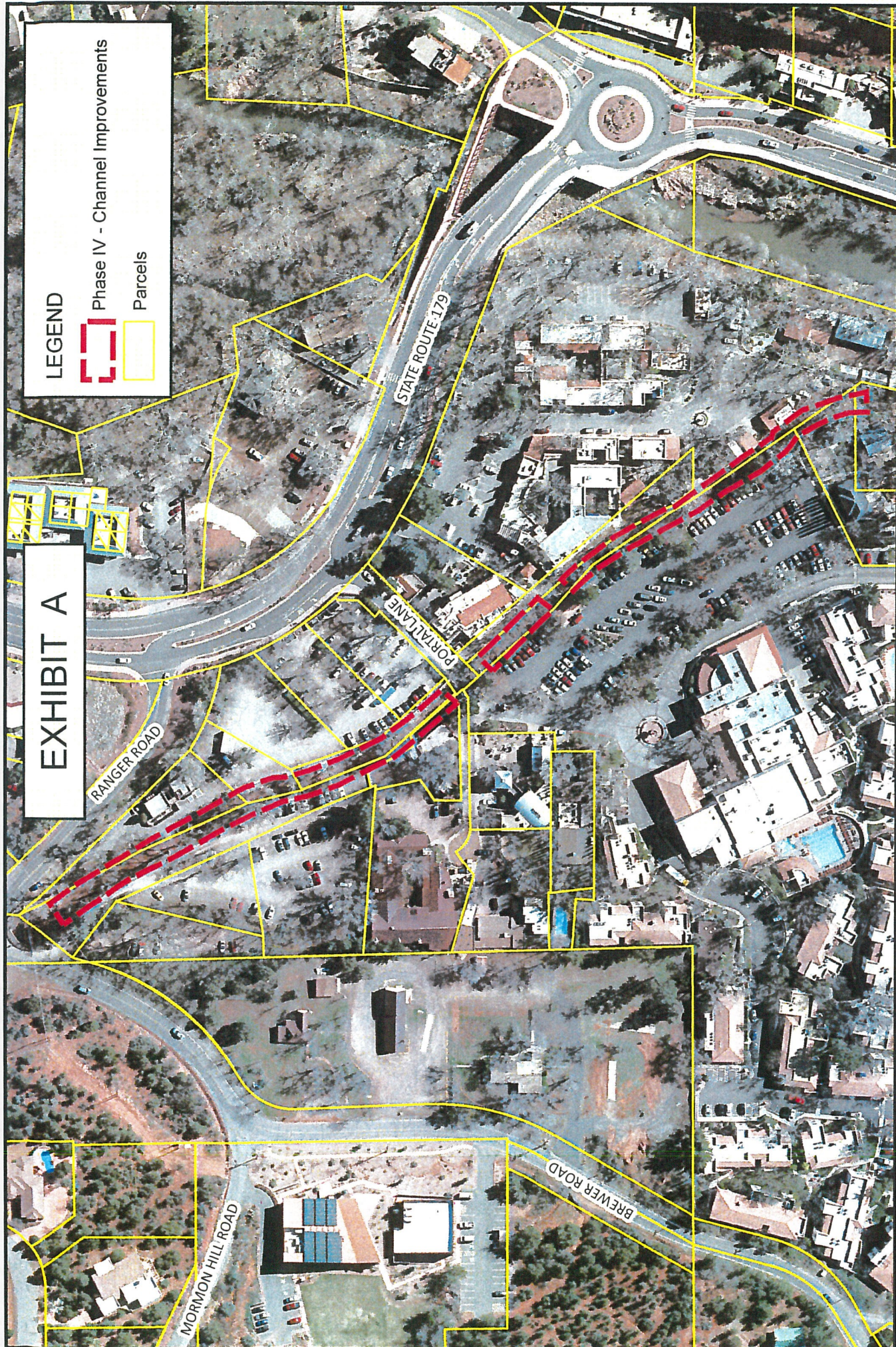
EXHIBIT A

LEGEND

Phase IV - Channel Improvements



Parcels



0 45 90 180 Feet

Brewer Road / Tlaquepaque Drainage Project Phase IV - Soldier Wash Channel Improvements

This map is designed to provide as-is information only. The data is not accurate to engineering or surveying standards. The City of Sedona is not liable or responsible for loss or damages arising from the data contained on this map.

Exhibit "B"
Insurance Requirements

City, Contractor and all subcontractors, service providers and material suppliers retained for the Project (collectively, "Service Providers") must submit verification of insurance by providing a certificate of insurance on a standard ACORD 25-S form issued by a carrier with an S&P or Best rating not less than A-VII, unless otherwise approved in writing by Tlaquepaque.

The Certificate must include:

1. Additional insured endorsement for general liability naming **TLAQ Partners, LLC**, and each of their respective parents, subsidiaries and affiliates and each of their officials, shareholders, principals, members, managers, officers, directors, employees and agents. Coverage is primary and non-contributory. The additional insured endorsement shall state that the coverage provided to the additional insureds is primary and non-contributing with respect to any other insurance available to the additional insureds.
2. A copy of the endorsement must be provided on form CG 2010 and form CG 2037 if applicable to service being provided.
3. The Certificate must also evidence that each carrier has provided Waivers of Subrogation in favor of Tlaquepaque as referenced in the Agreement.
4. Commercial General Liability insurance on an occurrence coverage form, at least as broad as the Insurance Services Office Commercial General Liability Policy form CG 0001©.
5. Additionally the policy(s) may not contain exclusions for residential or subsidence. Both must be evidenced on the certificate of insurance.
6. Certificate Holders must read:

Tlaq Partners, LLC
PO Box 1868
Sedona, AZ 86339

For City, Contractor and all Service Providers, the following minimum and unimpaired limits of insurance (unless higher limits required by law or statute) are required. In addition to procuring and maintaining this insurance throughout the duration of the Agreement, City and Contractor agree to continue to procure and maintain products and completed operations liability insurance coverage following completion of the Project for a period of one year.

Workers' Compensation and Employer's Liability

Part One - Workers' Compensation: Statutory Limit

Part Two - Employer's Liability: Annual Limits:

Bodily Injury by Accident, each Accident: \$ 1,000,000

Bodily Injury by Disease, each Employee \$ 1,000,000

Bodily Injury by Disease, Policy Limit: \$ 1,000,000

Commercial General Liability

General Aggregate \$2,000,000

Products/Completed Operations Aggregate \$2,000,000

Personal/Advertising Injury \$1,000,000

Each Occurrence Limit \$1,000,000

Coverage is required to be on an Occurrence form and shall apply to bodily injury and property damage for operations including independent contractors, products and completed operations.

Umbrella/Excess Liability

General Aggregate \$5,000,000

Products/Completed Operations Aggregate \$5,000,000

Personal/Advertising Injury \$5,000,000

Each Occurrence Limit \$5,000,000

Limits can be provided by a combination of a primary Commercial General Liability policy and Excess or Umbrella Liability policy.

Automobile Liability

Commercial Business Auto Policy covering all owned, hired and non-owned automobiles, trucks and trailers with coverage limits not less than **\$1,000,000 Combined Single Limit** each accident for Bodily Injury and Property Damage. Coverage will apply both on and away from the Project site. All subcontractors shall be required to maintain limits of not less than **\$1,000,000 Combined Single Limit**.

Property Insurance

City, Contractor and Service Providers are solely responsible for their own insurance for owned and leased equipment and materials, whether such equipment is located at the Project site or "in transit". Service providers are solely responsible for any loss or damage to their personal property including, without limitation, property or materials created or provided under the Agreement until installed at the Project site, service provider tools and equipment, and scaffolding and temporary structures, whether owned, used, leased, or rented by Service provider.

Crime & Employee Dishonesty

Crime and Employee Dishonesty insurance with coverage limits not less than \$1,000,000.00

Note: Waivers Required

All Workers' Compensation, General Liability, Automobile, Umbrella or Excess Liability and Property insurers, including Contractor's equipment, shall waive all claims.